

Docket No. NB-201600

17

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Ming Fai CHAN, et al.

Serial No.: 09/847,525

Filing Date: May 1, 2001

For: IMPROVED BETA-LACTAM  
ANTIBIOTICS

Group Art Unit: 1645

FAX RECEIVED

JUL 28 2003

PETITIONS OFFICE

PROSECUTION BY ASSIGNEE AND POWER OF ATTORNEY  
UNDER 37 C.F.R. § 3.71Commissioner for Patents  
Washington, D.C. 20231

Sir:

NewBiotics Inc., the assignee of the entire right, title and interest in this patent application, under 37 C.F.R. § 3.71 hereby appoints:

Attorney	Registration No.	Attorney	Registration No.
David Beck	37,776	John W. Calkins	43,523
Patricia R. Coleman James	37,155	Terry Garnett	44,698
Carol M. Gruppi	37,341	Antoinette F. Konski	34,202
David W. Maher	40,077	Michael J. Shuster	41,310
William E. Thomson, Jr.	20,719	Michele Todd Wasmuth	43,239
Michael E. Woods	33,466		

all of the firm McCutchen Doyle Brown & Enersen LLP, Three Embarcadero Center, Suite 1800, San Francisco, CA 94111-4067, to prosecute this application and transact all matters in the United States Patent and Trademark Office connected therewith, said appointment to be to the exclusion of the inventors and their attorneys in accordance with the provisions of 37 C.F.R. § 3.71.

Please direct all written communications relative to this application to:

Antoinette F. Konski  
McCutchen Doyle Brown & Enersen LLP  
Three Embarcadero Center, Suite 1800  
San Francisco, CA 94111-4067  
Facsimile: (650) 849-4800

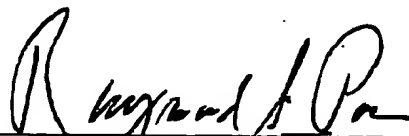
Please direct all telephone communications to Antoinette F. Konski at (650) 849-4950.

NewBiotics, Inc.

Dated:

Oct. 26, 2001

By:



Name: **Raymond S. Poon, Ph.D.**

Title: **Executive Vice President, Business  
Development & Operations**

Address: **NewBiotics, Inc.  
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San Diego, CA 92121**

PTO/SB/64 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>		Docket Number (Optional) NB 2016.00	
<p>First named inventor: Ming Fai Chan</p> <p>Application No.: 09/847,525      Art Unit: 1624</p> <p>Filed: May 1, 2001      Examiner: Mark L. Berch</p> <p>Title: Beta-Lactam Antibiotics (As Amended)</p> <p>Attention: Office of Petitions Assistant Commissioner for Patents Box DAC Washington, DC 20231</p> <p style="text-align: right; font-weight: bold;">FAX RECEIVED JUL 28 2003 PETITIONS OFFICE</p> <p>NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.</p> <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.</p> <p style="text-align: center;"><b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</b></p> <p>NOTE: A grantable petition requires the following items:</p> <ul style="list-style-type: none"> <li>(1) Petition fee;</li> <li>(2) Reply and/or issue fee;</li> <li>(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; and</li> <li>(4) Statement that the entire delay was unintentional.</li> </ul> <p>1. Petition fee</p> <p><input checked="" type="checkbox"/> Small entity – fee \$650.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Other than small entity – fee \$* (37 CFR 1.17(m)).</p> <p>2. Reply and/or fee</p> <p>A. The reply and/or fee to the above-noted Office action in the form of Amendment and Response to Office Action (identify type of reply):</p> <p><input type="checkbox"/> has been filed previously on January 17, 2003.</p> <p><input checked="" type="checkbox"/> is enclosed herewith.</p> <p>B. The issue fee of \$*.</p> <p><input type="checkbox"/> has been paid previously on *.</p> <p><input type="checkbox"/> is enclosed herewith.</p>			

Page 1 of 2

Burden Hours Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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PTO/SB/04 (10-01)

Approved for use through 10/31/2002. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\* for a small entity or \$\* for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

July 28 2003  
Date

Antoinette F. Konski  
Antoinette F. Konski (Reg. No. 34,202)

Telephone

Number: (650) 849-4950

Bingham McCutchen LLP  
Three Embarcadero Center, Suite 1800  
San Francisco, California 94111

- Enclosures: ☒ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unintentional delay and Request for copy of Office Action
- ☐ Other: Return Postcard

## CERTIFICATE OF MAILING OR TRANSMISSION [ 37 CFR 1.10(a)]

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below as first class mail in an envelope addressed to: Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-8916.

July 28, 2003  
Date

Peggy Nichols  
Peggy Nichols